

1 [SEE SIGNATURE PAGES FOR COUNSEL NAMES]

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3
4 UNITED STATES DISTRICT COURT
5 NORTHERN DISTRICT OF CALIFORNIA
6 SAN FRANCISCO DIVISION

7
8 EDWARDS LIFESCIENCES LLC and
9 ENDOGAD RESEARCH PTY LIMITED,

10 Plaintiffs,

11 v.

12 COOK INCORPORATED and W.L.
13 GORE & ASSOCIATES, INC.,

14 Defendants.

No. C 03-3817 JSW (WDB)

**THIRD [PROPOSED] ORDER AND
STIPULATION REGARDING
ISSUANCE OF COMMISSION FOR
TAKING DEPOSITIONS IN
AUSTRALIA**

Judge Jeffrey S. White
Magistrate Judge Wayne D. Brazil

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN
A Professional Corporation

15 Plaintiffs, Edwards Lifesciences LLC and EndoGAD Research Pty Limited, and
16 Defendants, Cook Incorporated and W.L. Gore & Associates, Inc., by and through their
17 undersigned counsel, hereby submit this Third Joint Stipulation Regarding Issuance of
18 Commission for Taking Depositions in Australia. The stipulation is based on the following
19 recitals.

20 WHEREAS, Dr. Geoffrey White, Dr. Weiyun Yu, Mr. Crispin Marsh, and Dr. James May
21 are Australian nationals who live and work in Australia;

22 WHEREAS, the parties have scheduled the depositions of these witnesses in Sydney,
23 Australia, as follows: Dr. Geoffrey White (February 27, 28, and 29, 2008), Dr. Weiyun Yu
24 (February 27 and 29, 2008), Mr. Crispin Marsh (February 28 and 29, 2008), and Dr. James May
25 (March 1, 2008).

26 WHEREAS, Dr. Geoffrey White, Dr. Weiyun Yu, Mr. Crispin Marsh, and Dr. James May
27 have agreed to voluntarily appear for depositions in Australia;

1 WHEREAS, the Court issued a Second Order and Stipulation Regarding Issuance of
2 Commission for Taking Depositions in Australia on August 9, 2007 (Docket #487), which
3 Defendants believe applies to the above-identified depositions in Australia, but Plaintiffs believe
4 another commission is necessary;

5 WHEREAS, the parties therefore request that the Court issue a commission pursuant to
6 FED. R. CIV. P. 28(b) for purposes of taking these depositions in Australia;

7 NOW, THEREFORE, the parties jointly stipulate to the issuance of a commission by the
8 Court – directed to the attorneys representing the parties and the court reporter retained to attend
9 and transcribe the depositions – to administer the oath and take testimony in Australia from
10 these witnesses, pursuant to FED. R. CIV. P. 28(b).

11 Dated: February 21, 2008

By: /s/ Lisa A. Schneider

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24 *Attorneys for Plaintiffs,*
25 EDWARDS LIFESCIENCES LLC and
26 ENDOGAD RESEARCH PTY LIMITED

27 Dated: February 21, 2008

By: /s/ Jeffry M. Nichols

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Dated: February 21, 2008

By: /s/ Jennifer BianRosa

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I, Jeffry M. Nichols, am the ECF User whose ID and password are being used to file this
THIRD [PROPOSED] ORDER AND STIPULATION REGARDING ISSUANCE OF
COMMISSION FOR TAKING DEPOSITIONS IN AUSTRALIA. In compliance with General
Order 45, X.B., I hereby attest that Lisa A. Schneider and Jennifer BianRosa have concurred in
this filing.

Dated: February 21, 2008

By: /s/ Jeffry M. Nichols

PURSUANT TO STIPULATION AND FED. R. CIV. P. 28(B), IT IS HEREBY
ORDERED that the attorneys representing the parties and/or the court reporter retained to attend
and transcribe the depositions of Dr. Geoffrey White, Dr. Weiyun Yu, Mr. Crispin Marsh, and
Dr. James May are commissioned to administer the oath and take testimony from the witnesses
in Australia. This commission applies to the taking of these depositions in Australia even if one
or more of them are rescheduled to an alternative date.

IT IS SO ORDERED:

2/22/08

Date


Magistrate Judge Wayne D. Brazil

HOWARD
RICE
NEMEROVSKI
CANADY
FALK
& RABKIN

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PROOF OF SERVICE

I, Kinson Yee, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Three Embarcadero Center, 7th Floor San Francisco, California 94111-4024. On February 21, 2008, I served the following document(s) described as:

THIRD [PROPOSED] ORDER AND STIPULATION REGARDING ISSUANCE OF COMMISSION FOR TAKING DEPOSITIONS IN AUSTRALIA,

as follows:

VIA E-MAIL & FEDERAL EXPRESS: Russell L. Johnson (rljohnson@sidley.com) Carrie W. Cotter (ccotter@sidley.com) SIDLEY AUSTIN LLP 555 California Street, Suite 5000 San Francisco, California 94104-1715	VIA E-MAIL & FEDERAL EXPRESS: Mark J. Linderman (mlinderman@sonnenschein.com) Hillary Kalay (hkalay@sonnenschein.com) SONNENSCHN NATH & ROSENTHAL 525 Market Street, 26th Floor San Francisco, CA 94105
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I declare under penalty of perjury that the foregoing is true and correct. Executed at San Francisco, California on February 21, 2008.

